

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL-APPLICATION-NO.1195-OF-1994

DATE-OF-ORDER:-22nd-July,-1997

BETWEEN:

L.TULSIRAJ

.. APPLICANT

AND

1. The Chief Operating Manager/SC (BG),
South Central Railway,
Secunderabad,
2. The Addl.Divisional Railway Manager (BG),
S.C.Railway, Secunderabad,
3. The Sr.Divisional Mechanical engiener (P) (BG),
(Disciplinary authority),
S.C.Railway, Secunderabad divn,
Secunderabad.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.P.KRISHNA REDDY

COUNSEL FOR THE RESPONDENTS:Mr.NR DEVARAJ,Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.P.Krishna Reddy, learned counsel for the applicant and Mr.N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant herein while working as Goods Driver was issued with a charge memo in an accident case. The

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charge levelled against him reads as follows:-

"That the said Shri Tulsiraj.L., Driver/KZJ has committed serious misconduct in that while working Train No. UP CPC (N) with Electric Loco No.23430 on 01.08.91, he has failed to control the speed of the train while entering loop line at Ramagundam and passed the UP Loop Line Starter signal at 'ON' position and entered the Tower CAR Siding, smashed the Tower Car and derailed along with 5 wagons at KM.273/21. Shri Tulsiraj.L. Driver/KZJ has thus violated rule NO.GR 3.81 and GR 2.11(2)(d), and Rule No.3-I(i) and (ii) & (iii) of the Railway Service Conduct Rules, 1966."

The above charge was inquired into and the Inquiry Officer found that the charge is proved. On the basis of the inquiry report, the disciplinary authority viz, R-3 considered the inquiry report and passed the order No.C/T5/G/B2/3 dated 30.7.92 (Page 20 to the OA) removing the applicant from service. Against that order, the applicant had filed an appeal to R-2. R-2 disposed of his appeal confirming the penalty imposed on him by the disciplinary authority.

3. In the meantime, a Criminal Case had been filed on the file of XIII Metropolitan Magistrate for Railways, Secunderabad in Calendar Case No.202/91 which was disposed of on 14.6.94. The first paragraph of the judgement gives contour of the charges levelled against the applicant. A reading of the charge when compared with the charge which

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is extracted above indicate that the charge levelled against him in CC No.202/91 is also similar to the charge levelled against him by the departmental authorities. The C.C.No.202/91 on the file of the XIII Metropolitan Magistrate for Railways was disposed of on 14.6.94. By this order, the applicant was not found guilty and he was entitled for acquittal and accordingly he was acquitted under Section 255(1) Cr.PC.

4. This OA is filed praying for setting aside the impugned orders of the disciplinary and the appellate authorities removing him from service and for a consequential direction to the respondent to reinstate him with all consequential benefits including continuity of service, back wages, increments, promotions etc.

5. When the OA was taken up for hearing, the learned counsel for the applicant submitted that the competent judicial forum had acquitted the applicant from the same charge for which he was earlier removed by the departmental authorities. In view of the above, it is essential that the removal proceedings of the disciplinary and appellate authorities should be set-aside and he prays for a further direction to reinstate him into service. The judgement of XIII Metropolitan Magistrate for Railways in C.C.No.202/91 was delivered on 14.6.94. If this fact ^{had} ~~would have~~ been brought to the notice of the Bench when the OA was filed in September, 1994 probably the case could have been settled by now. In any case now that the judgement in CC No.202/91 has been noticed today, we feel that a suitably worded representation should be filed by the applicant to the




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disciplinary and appellate authorities for review of their earlier order removing him from service taking due note of the judgment in C.C.No.202/91. While submitting the representation a copy of the judgement in C.C.No.202/91 should ^{also} be enclosed to that representation. If the disciplinary and the appellate authorities feel diffident to review the punishment order, the same should be put up to the higher authority who can review the ^{punishment order} ~~charge~~. On the basis of the review, a suitable reply should be given to the applicant within a period of four months from the date of receipt of a copy of this judgement.

6. The OA is ordered accordingly. No order as to costs.

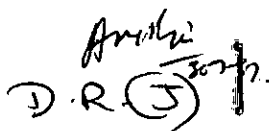

(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

22.7.97

DATED: -22nd-July, -1997
Dictated in the open court.

vsn


D.R. (J)

8/8/97
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: M
(J)

DATED: 22/7/97

ORDER/JUDGEMENT

M.A./R.A/C.A. NO.

in

O.A. NO. 1195/94

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

प्रेषण/DESPATCH

- 5 AUG 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH